

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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[www.montgomerycountymd.gov/content/council/boa/board.asp](http://www.montgomerycountymd.gov/content/council/boa/board.asp)

**Case No. S-2641  
CBA-143-A**

**PETITION OF ROCK CREEK KAY-CEE CLUB, INC.  
AND ROCK CREEK COUNCIL**

OPINION OF THE BOARD

(Opinion Adopted October 19, 2005)

(Effective Date of Opinion: November 28, 2005)

Case No. CBA-143-A is a petition for modification of an existing special exception for a private club, to enlarge a building and permit its use for private functions by non-club members. Case No. S-2641 is a petition for a new special exception by the Rock Creek Kay-Cee Club to allow commercial use of 65 parking spaces on its existing parking lot. The Board of Appeals granted Case No. CBA-143 to the Rock Creek Kay Cee Club, Inc., and Rock Creek Council on February 16, 1954, to permit an eleemosynary or philanthropic institution, or a private club, or both.

The subject property is located at 5417 West Cedar Lane, Bethesda, Maryland, 20814, in the R-60/TDR Zone.

The Hearing Examiner for Montgomery County held a public hearing on Case Nos. CBA-143-A and S-2641 on July 22, 2005, closed the record in the case on August 19, 2005, and on September 27, 2005, issued a Report and Recommendation for approval of both petitions.

Decision of the Board:                      Petitions **Granted**, Subject to  
Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on October 19, 2005. The Board also had before it a letter dated October 10, 2005, from Mark M. Viani, Esquire, on behalf of the Knights of Columbus. Mr. Viani requests that the Board adopt a condition

providing that issuance of a building permit for “any element of the first phase of improvements to the main building on the property....or commencement of the proposed improvement to the existing parking lot....be considered satisfaction of the validity requirements of Section 59-A-4.53(b)(2) for all improvements proposed in the Petition.”

After careful review of the Report and Recommendation, together with Mr. Viani's October 10 letter and the record in the case, the Board adopts the Report and Recommendation and grants both the modification and new special exception, subject to the following conditions:

1. Petitioner shall be bound by its testimony and exhibits of record, the testimony of its witnesses and representations of its attorney, to the extent that such evidence and representations are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.
2. All terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.
3. The use of the clubhouse by non-members is limited to thirty private functions per year and no more than 200 people may attend such functions. A private function is one for which petitioner(s) receive remuneration. Council members must be present at each private function and their numbers will be included in the 200-attendance maximum.
4. Private functions may take place only on weekends and on major holidays. Terrapin Systems' monthly use may continue in accordance with current practice only through December 2005 and must terminate thereafter.
5. No commercial use of the parking lot is permitted except by Suburban Hospital for staff parking. Hospital parking is limited to 65 spaces, Monday through Friday, between 6:00 a.m. and 6:00 p.m. No other commercial use of the parking lot is authorized absent a modification to the special exception approved in S-2641.
6. Petitioners must submit a tree save plan to the Environmental Planning staff of the Planning Board before the County Department of Permitting Services issues erosion and sediment control permits. The tree save plan must be prepared by an arborist certified by the International Society of Arboriculture.
7. The club house must be limited to 11,720 square feet.
8. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the

special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

9. Before installation of lighting for the patio deck, petitioners must submit to the Board of Appeals an application to modify special exception Case No. CBA-143-A to permit the proposed lighting. This submission must include a revised photometric analysis demonstrating compliance with Section 59-G-1.23(h).

10. Petitioners are under a continuing duty to fill in screening gaps resulting from the removal or deterioration of vegetation on neighboring property to the extent necessary to provide screening on the subject property for the parking lot meeting the standards of Section 59-E-2.91 along the eastern, northern, and western perimeters of the property.

11. Issuance of a building permit for any element of the first phase of improvements to the main building on the property or commencement of the proposed improvement to the existing parking lot shall be considered satisfaction of the validity requirements of Section 59-A-4.53(b)(2) for all improvements proposed in the Petition.

12. The Applicant shall install screening along the northern property line from the eastern property line to the point where the WSSC tower is located, and shall submit to the Board a revised Landscape and Lighting Plan showing the screening within 180 days of the date of this opinion.

13. The Applicant shall submit annual reports to the Board of Appeals summarizing the Applicant's compliance with the terms and conditions of the special exception.

14. The Board of Appeals retains jurisdiction to impose additional conditions related to hours of operation and noise in the event that future events indicate such conditions are warranted.

15. Petitioners must comply with applicable requirements under Chapter 50 of the Montgomery County Code, including minor subdivision regulations for plat recordation.

On a motion by Donna L. Barron, seconded by Angelo M. Caputo, with Wendell M. Holloway and Allison Ishihara Fultz, Chair in agreement and Caryn L. Hines necessarily not participating:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the records in Case Nos. CBA-143-A and S-2641 are re-opened to receive Mark M. Viani's letter of October 10, 2005, as Exhibit No. 32 in Case No. CBA-143-A and Exhibit No. 34 in Case No. S-2641; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 28<sup>th</sup> day of November, 2005.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.